

RECOMMENDATIONS

Addressing China's Currency Manipulation

- China's recent exchange rate policy reforms have to date resulted in only a 2.1 percent appreciation of the renminbi (RMB) against the U.S. dollar, leaving the RMB highly undervalued. In the absence of immediate steps to allow the RMB to appreciate by at least 25 percent against the U.S. dollar or a transparent, trade-weighted basket of international currencies, the Commission recommends that Congress pursue a four-track policy to move China to take appropriate action to revalue the RMB:
 - Congress should press the Administration to file a WTO dispute regarding China's exchange rate practices. These prac-

tices continue to violate a number of its WTO and IMF membership obligations, including the WTO prohibition on export subsidies and the IMF proscription of currency manipulation. Congress should press the Administration to respond to China's violation of its international obligations by working with U.S. trading partners to bring to bear on China the mechanisms of all relevant international institutions.

- Congress should consider imposing an immediate, across-the-board tariff on Chinese imports at the level determined necessary to gain prompt action by China to strengthen significantly the value of the RMB. The United States can justify such an action under WTO Article XXI, which allows members to take necessary actions to protect their national security. China's undervalued currency has contributed to a loss of U.S. manufacturing, which is a national security concern for the United States.
- Congress should reduce the ability of the Treasury Department to use technical definitions to avoid classifying China as a currency manipulator by amending the 1988 Omnibus Trade Act to (i) include a clear definition of currency manipulation, and (ii) eliminate the requirement that a country must be running a material global trade surplus in order for the Secretary of the Treasury to determine that the country is manipulating its currency to gain a trade advantage.
- Congress should urge the Treasury Department to maintain a high level of pressure on China to take more significant actions expeditiously to revalue its currency and, if such actions are not forthcoming by the time Treasury issues its next exchange rate report, to designate China as a currency manipulator and initiate bilateral and IMF negotiations.

Challenging China's IPR Violations

- The Commission recommends that Congress support USTR in taking immediate action under U.S. law and in international venues pertaining to China's violation of IPR obligations, particularly China's failure to meet the requisite standards of effective enforcement, including criminal enforcement, explicitly imposed by the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement.

Enhancing U.S. Trade Remedies

- The Commission recommends that Congress enact legislation to make countervailing duties applicable to non-market economies.
- The Commission recommends that Congress facilitate the use of the Section 421 China-specific safeguard negotiated as part of China's WTO accession. Congress should consider authorizing compensation to petitioners in the Section 421 safeguard process for legal fees incurred in cases where the ITC finds that market disruption has occurred but the President has denied relief. Congress should also consider eliminating presidential discretion in the application of relief through Section 421 petitions or limiting

discretion to the consideration of non-economic national security factors.

- The Commission recommends that Congress repeal the new shipper bonding privilege that has allowed many importers of Chinese goods to avoid payment of antidumping duties. Importers of goods subject to antidumping or countervailing duties should be required to deposit in cash the amount of any estimated applicable duty.
- The Commission recommends that Congress maintain the Continued Dumping and Subsidies Offset Act of 2000 (CDSOA), notwithstanding the WTO determination that it is inconsistent with the WTO Agreement. Congress should press the Administration to seek explicit recognition of the existing right of WTO Members to distribute monies collected from antidumping and countervailing duties during the Doha Round negotiations and the review of the WTO's dispute resolution mechanism.

Countering China's Government Subsidies and Discriminatory Trade Practices

- The Commission recommends that Congress direct the Government Accountability Office (GAO) to investigate China's system of government subsidies for manufacturing, including tax incentives, preferential access to credit and capital from financial institutions owned or influenced by the state, subsidized utilities, and investment conditions requiring technology transfers. The investigation should focus in particular on the extent to which state-owned or state-invested banks in China provide loans to state-owned, state-invested, and other domestic industries on a noncommercial, preferential basis. The results of this investigation should be provided in a report to Congress that assesses whether any of these practices may be actionable subsidies under the WTO and lays out specific steps the U.S. government can take to address these practices.
- The Commission recommends that Congress urge USTR to investigate the strength of potential cases against Chinese subsidies categorized as actionable, and to file WTO disputes concerning any subsidies that meet WTO definitions for prohibited subsidies.¹⁷⁹ For example, scrutiny is warranted regarding China's provision of extensive subsidies for the expansion of its domestic paper products industry, which, combined with the elimination of tariffs on raw logs and high-grade paper machines and the maintenance or increase of tariffs on imports of finished wood products, supports the expansion of China's wood and paper products manufacturing industry at the expense of its trading partners' industries.

Retaining China's Non-Market Economy Status

- The Commission recommends that Congress require that the Department of Commerce obtain Congressional approval before implementing any determination that China has achieved market economy status as a country or for one or more sectors. Congress should ensure that China continues to be treated as a non-mar-

ket economy in the application of antidumping and countervailing duties through 2016, as is explicitly permitted by China's WTO accession agreement, unless China clearly meets the statutory criteria for market economy status.

Evaluating WTO Decisions and Conducting Future Trade Negotiations

- Many areas of China's WTO accession agreement impose dramatically unequal tariffs on comparable categories of Chinese and U.S. goods. China has developed at a pace far faster than was envisioned when its WTO accession was approved and these unequal tariff rates now heavily disadvantage U.S. exporters, accelerate import competition in the U.S. market, and are no longer supportable. The Commission recommends that Congress direct USTR to examine the potential for rectifying this situation as part of the Doha Round negotiations.

Bolstering U.S. Competitiveness

- The Commission recommends that Congress direct the Commerce Department to investigate ways to diminish the transfer of technology to China that is vital to U.S. national security and economic competitiveness by way of production transfers required to facilitate sales (offsets), particularly in the aerospace field. The investigation should identify the extent to which such transfers are required by Chinese government rules or regulations for commercial sales and therefore are potentially WTO inconsistent. Further, the Commission recommends that Congress encourage the Administration to enter into negotiations with the European Union aimed at reaching an agreement to take a united approach in countering efforts by China to explicitly or implicitly require production offsets as a condition of its aircraft purchases.
- The Commission recommends that Congress convene a summit of industry and labor representatives from the U.S. textile and apparel industries and senior executive branch officials to assess the potential impact and develop appropriate policy responses to the crisis affecting these industries. Among the issues to be examined should be how termination of the China textile safeguard under U.S. trade law at the end of 2008 will accelerate current trends, long-term implications of post-2008 Chinese sourcing trends, and the implications for the United States of shifts in textile and apparel production.
- The Commission recommends that Congress develop a long-term national competitiveness strategy with the goal of maintaining and enhancing the U.S. standard of living, economic and technological vitality, and strength in industries critical to national security and economic security. The strategy should include the education and training of a workforce capable of responding to the rapid changes of a globalized economy. It should create policy, tax, and economic environments that encourage domestic production leading to the retention and expansion of higher value-added jobs in the United States. Finally, it should recog-

nize specific industries that are vital to national or economic security, and ensure that a sufficient U.S. industry remains intact in those sectors.

- The Commission recommends that Congress revise U.S. international tax policy to remove incentives for U.S. firms to shift production out of the country.

Mandating Corporate Reporting

- The Commission recommends that Congress establish and fund a federally mandated corporate reporting system to gather sufficient data to provide a comprehensive understanding of the trade and investment relationship with China. Under such a system:
 - U.S. firms should be required to report to the Commerce Department their investments in China, the shift of production capacity and jobs resulting from these investments, both from within the United States to overseas and from one overseas location to another, and their contracting relationships with Chinese firms.
 - The Commerce Department should maintain an authoritative account of U.S. firms' R&D investments in China and a comprehensive assessment of their activities including any technology transfers, offsets, or R&D cooperation agreed to as part of the investment.

Supporting Dislocated Workers

- The Commission recommends that Congress fund information sessions and a public awareness campaign to inform laid-off workers about existing and newly established programs such as Trade Adjustment Assistance (TAA). Further, many workers adversely affected by trade are still excluded from receiving TAA assistance. Eligibility for TAA should be expanded to cover the broad array of workers adversely affected by trade with China, including those in the service sector and others who have not traditionally been covered. Funding should be increased to ensure that all eligible workers are able to participate fully.

Coordinating with the European Union and Japan on China Trade and Security Matters

- The Commission recommends that Congress work with the Administration to undertake more active efforts to coordinate with the EU, Japan, and other interested nations as appropriate to address mutual trade- and security-related concerns with China. Among these areas should be the following:
 - European governments and Japan share U.S. concerns about continuing large-scale IPR violations in China. Brussels, Tokyo, and Washington should coordinate their strategies on improving Chinese IPR compliance, particularly through joint action in the WTO.
 - U.S., EU, and Japanese officials should work together within the International Monetary Fund (IMF), the WTO, and other appropriate fora to move China toward a more meaningful up-

ward revaluation of the Chinese RMB that is more reflective of current economic realities.

- U.S., EU, and Japanese officials should work to enhance the effectiveness of the TRM within the WTO and consider undertaking an annual joint assessment of China's compliance record, in conjunction with China's other major trade partners if possible, that could serve as an alternative mechanism for measuring and improving China's compliance shortfalls.
- U.S. and EU officials should engage with each other to evaluate China's progress toward meeting U.S. and EU criteria for market economy status with the goal of arriving at a consistent analysis that ensures that China will have taken concrete and irreversible steps to earn market economy status before the benefits of such status are conferred.
- U.S., EU, and Japanese officials should develop coordinated responses to shared security concerns. Among the issues that should be considered is the EU's arms embargo on China, a major concern of both Japan and the United States.¹⁸⁰

Chinese Activity in Global Capital Markets

- The Commission recommends that Congress encourage the Administration to use Executive Order 13382 to freeze the assets of Chinese firms involved in WMD or missile-related proliferation, or Chinese companies or financial institutions that may be assisting or lending to such proliferators. Congress also should encourage the Administration to expand the provisions of Executive Order 13382 so the U.S. property of a parent company can be frozen if the parent knows or has reason to know about the proliferation activities undertaken by its subsidiaries, or so the U.S. property of financial institutions can be frozen if they know or have reason to know of the involvement of their lending customers in proliferation activities.
- The Commission recommends that Congress urge the Securities and Exchange Commission to work directly with its regulatory counterparts in other nations as well as through the International Organization of Securities Commissions to press for the harmonization and independent and robust enforcement of securities laws, especially as they relate to corporate governance and reporting, transparency, and disclosure requirements.
- The Commission reiterates the recommendation in its 2004 Annual Report that Congress reinstate the provision of the 2003 Intelligence Authorization Act (P.L. 107-306, Sec 827) directing the Director of Central Intelligence to prepare an annual report identifying Chinese or other foreign companies engaged in proliferation of weapons of mass destruction or their delivery systems that have raised, or attempted to raise, funds in U.S. capital markets.
- The Commission recommends that Congress instruct the Securities and Exchange Commission to notify the National Security Council (NSC) when any Chinese firm seeks to list on a U.S. capital market, and urge the NSC upon receipt of such a notification to consider carefully all relevant intelligence and determine if the

firm is involved in WMD or ballistic missile proliferation, support for terrorism, or other security-related abuses and, if so, to utilize the appropriate provisions of Executive Order 13382.

ENDNOTES

1. Despite the 2004 addition of ten countries to the EU, this datum refers only to the aggregate exports to China from the earlier fifteen members.
2. International Metalworkers' Federation, *Auto Report 2004*, (Geneva, Switzerland: 2004) pp. 43–45.
3. International Metalworkers' Federation, *Auto Report 2004*, (Geneva, Switzerland: 2004) p. 31.
4. International Metalworkers' Federation, *Auto Report 2004*, (Geneva, Switzerland: 2004) pp. 34–35.
5. U.S.-China Economic and Security Review Commission, *Hearing on the Impact of U.S.-China Trade and Investment on Key Manufacturing Sectors*, testimony of Stephen Girskey, September 23, 2004, p. 45.
6. International Metalworkers' Federation, *Auto Report 2004*, (Geneva, Switzerland: 2004) p. 38.
7. Peter S. Goodman, "Europe to Test-Drive Chinese SUV," *Washington Post*, July 9, 2005, p. D-1; Keith Bradsher, "China's Debut as Auto Exporter Signals Growing Challenge to U.S.," *New York Times*, June 28, 2005.
8. Brian Bremner and Kathleen Kerwin, "Here Come Chinese Cars," *Business Week*, May 26, 2005.
9. "General Motors' China Market Share Passes Volkswagen," *Bloomberg*, July 6, 2005.
10. "Chrysler May Export Cars from China," *Los Angeles Times*, April 22, 2005, p. C-3.
11. Ford Motor Co. press release, "Changan Automotive, Ford, Mazda Sign Joint Venture Contract For New Engine Plant in Nanjing," (April 19, 2005). http://media.ford.com/newsroom/release_display.cfm?release=20684
12. International Metalworkers' Federation, *Auto Report 2004*, (Geneva, Switzerland: 2004) p. 25.
13. International Metalworkers' Federation, *Auto Report 2004*, (Geneva, Switzerland: 2004) p. 36; U.S.-China Economic and Security Review Commission, *Hearing on the Impact of U.S.-China Trade and Investment on Key Manufacturing Sectors*, testimony of Ron Gettelfinger, September 23, 2004, p. 40.
14. U.S.-China Economic and Security Review Commission, *Hearing on the Impact of U.S.-China Trade and Investment on Key Manufacturing Sectors*, testimony of Ron Gettelfinger, September 23, 2004, p. 39.
15. "Boeing in China," <http://www.boeingchina.com/en>.
16. "4 China Airlines Sign Deal for Boeing Jets," *Associated Press* (August 8, 2005).
17. U.S.-China Economic and Security Review Commission, *Hearing on U.S.-China Trade Impacts on the U.S. Defense Industrial Base*, testimony of Peter Lichtenbaum, June 23, 2005.
18. U.S.-China Economic and Security Review Commission, *Hearing on China's High-Technology Development*, testimony of George M. Scalise, April 21, 2005, p. 32.
19. U.S.-China Economic and Security Review Commission, *Hearing on China's High-Technology Development*, testimony of George M. Scalise, April 21, 2005, p. 32.
20. "China Emerging as Chip Design Centre—iSuppli," *Reuters*, August 1, 2005.
21. U.S.-China Economic and Security Review Commission, *Hearing on China's High-Technology Development*, testimony of George M. Scalise, April 21, 2005, p. 33.
22. U.S.-China Economic and Security Review Commission, *Hearing on China's High-Technology Development*, testimony of George M. Scalise, April 21, 2005, pp. 31–33.
23. Office of the Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, *Report of the Defense Science Board Task Force on High Performance Microchip Supply* (Washington, DC: February 2005).
24. In the mid-1990s, SEMATECH ended its participation with the U.S. government funds matching system and expanded globally. It currently includes a subsidiary that serves as an international consortium of semiconductor industry members to develop cutting-edge semiconductor technology. See www.sematech.org.
25. Global Technology, Media & Telecommunication Industry Group, Deloitte Touche Tohmatsu, *Changing China: Will China's Technology Reshape Your Industry?* (July 2004).

26. U.S. Trade Representative, *Out-of-Cycle Review Results—China*, (Washington, DC, April 29, 2005).
27. U.S. Trade Representative, *2004 Report to Congress on China's WTO Compliance*, (Washington, DC: December 2004), pp. 49–58.
28. U.S. Trade Representative, *2004 Report to Congress on China's WTO Compliance*, (Washington, DC: 2004).
29. U.S.-China Economic and Security Review Commission, *Hearing on the Impact of U.S.-China Trade and Investment on Pacific Northwest Industries*, testimony of Christian Schlect, January 13, 2005, p. 136; U.S.-China Economic and Security Review Commission, *Hearing on China and the WTO: Assessing and Enforcing Compliance*, testimony of Nancy Foster, February 4, 2005, pp. 343–348; U.S.-China Economic and Security Review Commission, *Hearing on the Impact of U.S.-China Trade and Investment on Pacific Northwest Industries*, testimony of Rod Christensen, January 13, 2005, pp. 139–142.
30. U.S.-China Economic and Security Review Commission, *Hearing on China and the WTO: Assessing and Enforcing Compliance*, testimony of Nancy Foster, February 4, 2005, p. 344.
31. U.S.-China Economic and Security Review Commission, *Hearing on China and the WTO: Assessing and Enforcing Compliance*, testimony of Nancy Foster, February 4, 2005, p. 344.
32. U.S.-China Economic and Security Review Commission, *Hearing on China and the WTO: Assessing and Enforcing Compliance*, testimony of Nancy Foster, February 4, 2005, p. 346.
33. U.S.-China Economic and Security Review Commission, *Hearing on China and the WTO: Assessing and Enforcing Compliance*, testimony of Nancy Foster, February 4, 2005, pp. 347–350.
34. American Forest and Paper Association, *China's Subsidization of its Forest Products Industry*, (Washington, DC: July 2004).
35. International Trade Administration, "Top 25 Import Sources for Total Furniture SIC 25," September 7, 2005.
36. Virginia Bryson et al, "The Furniture Industry (Case Goods): The Future of the Industry, United States versus China," *Industry Economics*, March 7, 2003.
37. Bureau of Labor Statistics, U.S. Department of Labor, "May 2004 National Industry-Specific Occupational Employment and Wage Estimates," May 2004. This figure represents total employment under NAICS 337000—Furniture and Related Product Manufacturing.
38. U.S.-China Economic and Security Review Commission, *Hearing on the Impact of U.S.-China Trade and Investment on Pacific Northwest Industries*, testimony of Charles Dale Lovett, January 13, 2005, p. 186.
39. U.S.-China Economic and Security Review Commission, *Hearing on the Impact of U.S.-China Trade and Investment on Pacific Northwest Industries*, testimony of M.R. Dinsmore, January 13, 2005, p. 155.
40. U.S.-China Economic and Security Review Commission, *Hearing on the Impact of U.S.-China Trade and Investment on Pacific Northwest Industries*, testimony of Nathaniel Ruda, January 13, 2005, p. 162.
41. U.S.-China Economic and Security Review Commission, *Hearing on the Impact of U.S.-China Trade and Investment on Pacific Northwest Industries*, testimony of Nathaniel Ruda, January 13, 2005, p. 162.
42. U.S.-China Economic and Security Review Commission, *Hearing on U.S.-China Trade and Investment: Impact on Key Manufacturing and Industrial Sectors*, testimony of Jon Honeck, September 23, 2004, p. 13.
43. Mike Dorning, "Trade Deals Fall Short of Pledge," *Chicago Tribune*, October 15, 2005.
44. U.S.-China Economic and Security Review Commission, *Hearing on China and the Future of Globalization*, testimony of Dean Baker, May 19–20, 2005, pp. 153–156. Notably, some economists believe that the trade deficit can be resolved only when U.S. domestic savings increase. See, for example: U.S.-China Economic and Security Review Commission, *Hearing on China and the Future of Globalization*, testimony of Catherine Mann, May 19–20, 2005, p. 179.
45. According to Federal Reserve Bank data, from January 2002 through September 2005, the Japanese yen had appreciated by 17 percent, the South Korean won by 22 percent, and the Taiwan dollar by 7 percent.
46. U.S.-China Economic and Security Review Commission, *Hearing on China and the WTO: Assessing and Enforcing Compliance*, testimony of C. Fred Bergsten, February 3, 2005, p. 118.
47. Statement of Secretary John W. Snow on the FOREX Report, U.S. Treasury Department, May 17, 2005, p. 3.

48. U.S. Treasury Department, *Report to Congress on International Economic and Exchange Rate Policies*, (May 2005) p. 2.
49. U.S. Treasury Department, *Report to Congress on International Economic and Exchange Rate Policies*, (May 2005) p. 2.
50. U.S. Treasury Department, *Report to Congress on International Economic and Exchange Rate Policies*, (May 2005) p. 2.
51. The Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5304) provides as follows: “The Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade. If the Secretary considers that such manipulation is occurring with respect to countries that (1) have material global current account surpluses; and (2) have significant bilateral trade surpluses with the United States, the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage. The Secretary shall not be required to initiate negotiations in cases where such negotiations would have a serious detrimental impact on vital national economic and security interests; in such cases, the Secretary shall inform the chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives of his determination.”
52. U.S. Trade Representative, *2005 National Trade Estimate Report on Foreign Trade Barriers*, (March 2005) p. 94.
53. U.S. Trade Representative, *2005 National Trade Estimate Report on Foreign Trade Barriers*, (March 2005) p. 94.
54. Notably, the four largest banks in China—the Industrial and Commercial Bank of China, the Bank of China, the China Construction Bank, and the Agricultural Bank of China—remain state-owned and therefore available as instruments of state policy.
55. U.S.-China Economic and Security Review Commission, *Hearing on China and the WTO: Assessing and Enforcing Compliance*, testimony of Eric H. Smith, February 4, 2005, p. 312.
56. U.S.-China Economic and Security Review Commission, *Hearing on China and the WTO: Assessing and Enforcing Compliance*, testimony of Terence P. Stewart, February 3, 2005, p. 82.
57. Congressional-Executive Commission on China, *Intellectual Property Protection as Economic Policy: Will China Ever Enforce its IP Laws?*, testimony of Daniel C.K. Chow, May 16, 2005.
58. International Intellectual Property Alliance press release, *U.S. Copyright Industries Concerned about USTR’s 2005 Special 301 Decisions on China and Russia* (Washington, DC: April 29, 2005).
59. U.S.-China Economic and Security Review Commission, *Hearing on U.S.-China Trade and Investment: Impact on Pacific Northwest Industries*, testimony of Jesse M. Feder, January 13, 2005, p. 109.
60. U.S.-China Economic and Security Review Commission, *Hearing on China’s High-Technology Development*, testimony of John G. Malcolm, April 22, 2005, pp. 241–242.
61. U.S.-China Economic and Security Review Commission, *Hearing on China’s High-Technology Development*, testimony of John G. Malcolm, April 22, 2005, p. 243.
62. U.S.-China Economic and Security Review Commission, *Hearing on China’s High-Technology Development*, testimony of John G. Malcolm, April 22, 2005, p. 242.
63. U.S.-China Economic and Security Review Commission, *Hearing on China’s High-Technology Development*, testimony of John G. Malcolm, April 22, 2005, p. 241.
64. MPA press release, “China’s Ministry of Culture, SARFT Sign First Anti-Piracy Memorandum with MPA,” (July 15, 2005). http://www.mpa.org/MPAAPress/2005/2005_07_15.doc
65. U.S.-China Economic and Security Review Commission, *Hearing on China’s High-Technology Development*, testimony of Darcy Antonellis, April 22, 2005, pp. 258–259.
66. U.S.-China Economic and Security Review Commission, *Hearing on U.S.-China Trade and Investment: Impact on Pacific Northwest Industries*, testimony of David A. Blackburn, January 13, 2005, p. 168.

67. U.S.-China Economic and Security Review Commission, *Hearing on China's High-Technology Development*, testimony of Ted C. Fishman, April 22, 2005, p. 275.
68. U.S. State Department, *Country Reports on Human Rights Practices, 2004* (February 28, 2005).
69. Congressional-Executive Commission on China, *2005 Annual Report* (Washington, DC: October 11, 2005).
70. U.S.-China Economic and Security Review Commission, *Hearing on the Impact of U.S.-China Trade and Investment on Pacific Northwest Industries*, testimony of Owen E. Herrnsstadt, January 13, 2005, p. 67.
71. 19 U.S.C. 2411.
72. See also Chapter 1, Section 4 of this Report, which discusses national economic competitiveness.
73. Bureau of Labor and Statistics, U.S. Department of Labor; from the Current Employment Statistics Survey (all figures are seasonally adjusted).
74. Economic Policy Institute, *Economic Snapshot* (Washington, DC: January 21, 2004).
75. Jared Bernstein and Lee Price, *An Off-Kilter Expansion: Slack Job Market Continues to Hurt Wage Growth* (Washington, DC: Economic Policy Institute, September 2, 2005).
76. Kate Bronfenbrenner and Stephanie Luce, *The Changing Nature of Corporate Global Restructuring: The Impact of Production Shifts on Jobs in the U.S., China, and Around the Globe* (October 14, 2004). http://www.uscc.gov/researchpapers/2004/cornell_u_mass_report.pdf
77. Kate Bronfenbrenner and Stephanie Luce, *The Changing Nature of Corporate Global Restructuring: The Impact of Production Shifts on Jobs in the U.S., China, and Around the Globe* (October 14, 2004), pp. i-ii.
78. Robert E. Scott, *U.S.-China Trade, 1989-2003, Impact on Jobs and Industries, Nationally and State-by-State*, (Washington, DC: Economic Policy Institute, January 2005). http://www.uscc.gov/researchpapers/2005/05_02_07_epi_wp_rscott.pdf
79. Robert E. Scott, *U.S.-China Trade, 1989-2003, Impact on Jobs and Industries, Nationally and State-by-State*, (Washington, DC: Economic Policy Institute, January 2005), pp. 1-2.
80. The International Trade Commission reached a fourth affirmative finding of market disruption, regarding non-alloy steel pipe, and recommended relief on October 11, 2005. The President has not yet acted on the matter.
81. U.S. Trade Representative, *2004 Report to Congress on China's WTO Compliance* (Washington, DC: December 11, 2004).
82. U.S. Trade Representative, *Hearing on China's Compliance with its WTO Commitments*, testimony of the American Iron and Steel Institute, September 23, 2004; Trade Policy Staff Committee—U.S. Trade Representative, *Hearing on China's Compliance with World Trade Organization Commitments*, testimony of the U.S.-China Business Council, September 7, 2004; Trade Policy Staff Committee—U.S. Trade Representative, *Hearing on China's Compliance with World Trade Organization Commitments*, testimony of the Coalition of Service Industries, September 7, 2004; Trade Policy Staff Committee—U.S. Trade Representative, *Hearing on China's Compliance with World Trade Organization Commitments*, testimony of the Council for International Business, September 7, 2004; Trade Policy Staff Committee—U.S. Trade Representative, *Hearing on China's Compliance with World Trade Organization Commitments*, testimony of the U.S. Wheat Associates, September 7, 2004; Trade Policy Staff Committee—U.S. Trade Representative, *Hearing on China's Compliance with World Trade Organization Commitments*, testimony of the California Cherry Advisory Board, September 7, 2004; Trade Policy Staff Committee—U.S. Trade Representative, *Hearing on China's Compliance with World Trade Organization Commitments*, testimony of the National Milk Producers Federation and the U.S. Dairy Export Council, September 7, 2004; Trade Policy Staff Committee—U.S. Trade Representative, *Hearing on China's Compliance with World Trade Organization Commitments*, testimony of the International Intellectual Property Alliance, October 12, 2004; Trade Policy Staff Committee—U.S. Trade Representative, *Hearing on China's Compliance with World Trade Organization Commitments*, testimony of the International Anti Counterfeiting Coalition, September 15, 2004; U.S. Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers: China*, testimony of the Air Courier Conference of America and Conference of Asia Pacific Express Carriers, December 18, 2004; U.S. Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers: China*, testimony of the American Forest and Paper Association, December 18, 2004; U.S. Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers: China*, testimony of the Semiconductor Industry Association, December 21, 2004; U.S. Trade Representative, Na-

tional Trade Estimate Report on Foreign Trade Barriers: China, testimony of the Pharmaceutical Research and Manufacturers of America, December 21, 2004; U.S. Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers: China*, testimony of the Motion Picture Association, December 21, 2004; U.S. Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers: China*, testimony of the Plasma Protein Therapeutics Association, December 21, 2004; U.S. Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers: China*, testimony of the North American Export Grain Association, December 21, 2004; U.S. Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers: China*, testimony of the National Association of Manufacturers, December 21, 2004.

83. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Part III, Section 5, Article 61: “Members shall provide for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity. In appropriate cases, remedies available shall also include the seizure, forfeiture and destruction of the infringing goods and of any materials and implements the predominant use of which has been in the commission of the offence. Members may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, in particular where they are committed willfully and on a commercial scale.”

84. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Part III, Section 1, Article 41: “Members shall ensure that enforcement procedures as specified in this Part are available under their law so as to permit effective action against any act of infringement of intellectual property rights covered by this Agreement, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.” In the 2005 JCCT, China agreed to increase the ratio of criminal prosecutions to administrative prosecutions, which may have some practical effect but will not satisfy China’s obligations under the TRIPS article above.

85. U.S. Trade Representative, *2005 Special 301 Report* (Washington, DC: 2005).

86. U.S. law provides for the possibility of sanctions, but any sanctions applied under U.S. law would still be subject to U.S. obligations under the WTO.

87. U.S. Trade Representative, *Out-of-Cycle Review Results—China* (Washington, DC: April 29, 2005).

88. U.S. Trade Representative press release, “USTR Pursues WTO Process to Probe IPR Enforcement in China” (Washington, DC: October 26, 2005).

89. U.S.-China Economic and Security Review Commission, *Hearing on China and the WTO: Assessing and Enforcing Compliance*, testimony of David A. Hartquist, February 3–4, 2005, p. 138.

90. Notably, the GAO completed a series of four reports in 2005, considering the status and effectiveness of all four of these trade protection measures in relation to China.

91. National Council of Textile Organizations Press Release, “Massive Surge from China in January,” March 7, 2005.

92. The Office of Textiles and Apparel recently began biweekly releases of preliminary data on textile and apparel imports (<http://otexa.ita.doc.gov/prelimadmin/prelimdata.htm>). However, CITA’s guidelines for petition submission predate the availability of preliminary data, and it has not yet been determined whether preliminary data alone can support a case that market disruption has occurred.

93. U.S. Customs and Border Protection, *Continued Dumping and Subsidy Offset Act (CDSOA) of 2000, FY 2004 Report*, December 17, 2004.

94. U.S. Customs and Border Protection, *Continued Dumping and Subsidy Offset Act (CDSOA) of 2000, FY 2004 Report*, December 17, 2004.

95. H.R. 3283, which has been passed by the House of Representatives, would suspend the new shipper bonding privilege for three years.

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of Representatives, would make countervailing duties applicable to nonmarket economies.

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100. 19 U.S.C. § 1677(18).

101. Government Accountability Office, *U.S.-China Trade: Commerce Faces Practical and Legal Challenges in Applying Countervailing Duties*, (Washington, DC: June 17, 2005), p. 28.

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180. For more on the EU arms embargo, see Chapter 3, Section 1 and Chapter 4, Section 1.